



City of Santa Barbara California

STAFF HEARING OFFICER STAFF REPORT

REPORT DATE: October 15, 2008
AGENDA DATE: October 22, 2008
PROJECT ADDRESS: 1425 Mission Ridge Road (MST2008-00244)
TO: Susan Reardon, Senior Planner, Staff Hearing Officer
FROM: Planning Division, (805) 564-5470
Danny Kato, Senior Planner *D.K.*
Jo Anne La Conte, Assistant Planner *JAL*

I. PROJECT DESCRIPTION

The project consists of a proposal to amend a 2006 Planning Commission (PC) approval (MST2005-00098) for an "as-built" 55 foot long retaining wall, 836 cubic yards of grading in the front yard and within the road right-of-way, as-built pool removal, an entry gate and wall and a landscape plan. The work approved under that permit has not been completed. The applicant requests a Staff Hearing Officer (SHO) project amendment to reduce the finished grade adjacent to the retaining wall by 1.5 feet instead of the 5 feet approved by the PC and to allow a higher retaining wall height ranging from 3.73 feet to 6.11 feet instead of the 3.5 feet to 6.42 feet, approved by the PC. The required application is a modification to allow over height walls within 10 feet of a front lot line and within 10 feet of a driveway. The project is located on a 1.9 acre lot in the Hillside Design District.

Date Deemed Complete: August 21, 2008

Date Action Required: November 19, 2008

II. RECOMMENDATION

Staff recommends that the Staff Hearing Officer approve the request by making the findings in Section V, subject to the conditions in Exhibit A.

III. SITE INFORMATION AND PROJECT STATISTICS

A. SITE INFORMATION

Applicant: Suding Design
Landscape
Architects

Property Owner: Escalera Living Trust

Parcel Number:	019-103-023	Lot Area:	1.91 acres or 82,982 sq.ft.
General Plan:	Residential, 3 units per acre	Zoning:	A-2
Existing Use:	Single Family Residence	Topography:	Average slope 22% towards the south

Adjacent Land Uses:

North – Single Family Residential/Franceschi Park

East - Single Family Residential/Franceschi Park

South – Single Family Residential/Franceschi Park

West – Single Family Residential

B. PROJECT STATISTICS

	Existing	Proposed
Living Area	3,740 sq.ft.	No change
Garage	528 sq.ft.	No change
Accessory Space	None	None

C. PROPOSED LOT AREA COVERAGE

Building:	4,268 sq.ft.	5.1%
Hardscape:	10,000 sq.ft.	12.1%
Landscape:	6,871 sq.ft	82.8%

IV. BACKGROUND

The project was originally submitted on February 18, 2005 for the “as-built” construction of a wall, grading, landscaping, removal of a swimming pool and the proposed construction of an entry gate and wall. The project was reviewed by the Architectural Board of Review (ABR) and the PC under case number MST2005-00098. The project required Neighborhood Preservation Ordinance findings by the PC for cumulative grading that exceeded 500 cubic yards, and a modification for a wall height that exceeded 3 ½ feet in height in the front setback. The project was approved by the PC on February 16, 2006 subject to the conditions outlined in PC Resolution #010-06 (copy attached). The approval

required reduction of the grade adjacent to the retaining wall by 5 feet and reduction of the retaining wall height ranging from 3.5 feet at the cheek wall to 6.42 feet.

The approved project was submitted partially in response to an enforcement case for "as-built" walls in the front yard and in the public right-of-way, and for removal of landscaping from the public right-of-way. Once the landscaping had been removed from the public right-of-way, a view corridor was created from Franceschi Park. The PC recognized this new view corridor and conditioned the project so that the view corridor that was created would remain. The recorded condition regarding the review corridor required by the PC is outlined below:

Condition #5 – Future House – Any future house will be a single story home in the Mediterranean architectural style, subject to approval by the Architectural Board of Review and maintain the view corridor from Franceschi Park.

On February 28, 2008, the applicant submitted an alternate proposal for a substantial conformance determination to MST2005-00098. The alternate proposal included the following:

1. Revising the grade on the street side to be reduced by 1 foot instead of the 5 feet approved by the Planning Commission.
2. A new approximately 2 foot high sandstone dry stack boulder wall placed in front of the existing wall to create a tiered wall effect from the residence. Due to this change, the applicant no longer proposed cutting the "as-built" wall by 2 feet, as required by the PC approval.
3. The proposal included keeping the cheek wall portion of the wall at its "as-built" height. The revised design proposal was to raise the grade at the driveway entrance to meet the 3 ½ feet height limit outlined in Santa Barbara Municipal Code Section 28.87.170.

On March 6, 2008, the request for substantial conformance determination was denied.

On May 22, 2008, the applicant submitted the current application (MST2008-00244) for a request to amend the prior permit approval (MST2005-00098). The new application was received after the Neighborhood Preservation Ordinance (NPO) update in May of 2007. The grading trigger that originally required the project to be reviewed by the PC, no longer exists in the revised NPO. Therefore, the project does not require PC review. The amended application is subject to design review by the Single Family Design Board (SFDB), the SHO for a modification of the wall height within 10 feet of a front lot line and within 10 feet of a driveway.

The current application proposes to amend the project to reduce the height of the "as-built" wall by 1½ feet (rather than 3 feet as approved by the PC) and to reduce the grade by 1.5 feet (rather than the 5 feet as approved by the PC) in order to protect the existing trees, which have grown new feeder roots in the area where the grade was to be reduced in grade, on the northern side of the retaining wall, near Mission Ridge Road. The amended plans for the "as-built" wall will show a wall height ranging from 3.73 feet to 6.92 feet at the front of the property. The "cheek wall" height is proposed to be 3.73 feet (rather than 3.5 feet as approved by the PC). The previously approved entry gate, and "as-built" removal of a swimming pool are also included as part of the project.

The applicant submitted a letter to the SHO dated July 28, 2008 and an Oak Tree Consultation report dated April 1, 2008 from Robert Muraoka, M.S., B.S., Certified Arborist (#WE3987A) with recommendations (copies attached). The letter from the applicant states that the Oak trees have developed a new root system, and that removing soil in the Oak root zone would be a serious assault on the health of the trees. The applicant states in the letter that based on all the concerns outlined, they are proposing a compromise solution to the approval granted by the PC. The report from Robert Muraoka, M.S., B.S., Certified Arborist recommends leaving the soil at the current existing grade but includes tree protection measures if it is decided to return the soil to the original grade.

The City's Parks Division recommends not lowering the grade to lower the height of the wall as any soil removal will likely be a detriment to the long-term health of the trees. However, if the approval requires any grade change, the Parks Division recommends conditions to be implemented which have been included in the conditions of approval for this project.

This project was reviewed by the Single Family Design Board (SFDB) on July 21, 2008 (minutes attached). At the meeting, the SFDB stated that the modification request is supportable as submitted, verify that landscape is to be low, mounding, and preserve pedestrian views from Mission Ridge Road and that the wall will be lowered 18 inches and grade will be lowered 24 inches, protecting the new feeder roots of the oaks along Mission Ridge Road.

Most of the conditions required by the PC on February 16, 2006 that are still applicable have been carried over and are included in the conditions for this project.

V. FINDINGS AND CONDITIONS

The Staff Hearing Officer finds that the Modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot, because Mission Ridge Road is approximately 30 feet wide, there is a landscaped right-of-way between the road and the property of approximately 30 feet, the visibility of the wall from Mission Ridge Road is minor as the property slopes downward from the road and the wall does not obstruct visibility of vehicular traffic .

Exhibits:

- A. Conditions of Approval for MST2008-00244
- B. Site Plan, Oak Protection/Drainage & Wall Plan, Landscape Plan, Wall Section & Elevation Plan (full size plans under separate cover)
- C. Applicant's letter dated July 28, 2008
- D. Oak Tree Consultation report dated April 1, 2008
- E. SFDB Minutes dated July 21, 2008
- F. MST2005-00098 - Wall Sections (Option B) and Entry Gate Elevation approved by the PC

Contact/Case Planner: Jo Anne La Conte, Assistant Planner
(jlaconte@SantaBarbaraCA.gov)
630 Garden Street, Santa Barbara, CA 93101
Phone: (805) 564-5470

STAFF HEARING OFFICER CONDITIONS OF APPROVAL

1422 MISSION RIDGE ROAD
MODIFICATIONS
OCTOBER 22, 2008

- I. In consideration of the project approval granted by the Staff Hearing Officer and for the benefit of the owner(s) and occupant(s) of the Real Property, the owners and occupants of adjacent real property and the public generally, the following terms and conditions are imposed on the use, possession, and enjoyment of the Real Property:
 - A. **Design Review.** The project is subject to the review and approval of the Single Family Design Board (SFDB)). SFDB shall not grant preliminary approval of the project until the following Staff Hearing Officer land use conditions have been satisfied.
 1. **Tree Removal and Replacement.** All trees removed, except fruit trees and street trees approved for removal without replacement by the Parks Department shall be replaced on-site on a one-for-one basis with minimum 24-inch box sized tree(s) of an appropriate species or like species, in order to maintain the site's visual appearance and reduce impacts resulting from the loss of trees.
 2. **Tree Protection Measures.** The landscape plan and grading plan shall include the following tree protection measures, intended to minimize impacts on trees:
 - (a) **Landscaping Under Trees.** Landscaping under the tree(s) shall be compatible with the preservation of the tree(s).
 - (b) **Arborist's Report.** Include a note on the plans that recommendations/conditions contained in the arborist's report prepared by Robert Muraoka, M.S., B.S., dated April 1, 2008, shall be implemented.
 - (c) **Fencing.** Fencing or protective barriers around the tree(s) during construction.
 - (d) **Oak Tree Protection Measures.** The following provisions shall apply to existing oak trees on site:
 - (1) Landscaping provided under the oak tree(s) shall be compatible with preservation of the trees as determined by Single Family Design Board (SFDB)). No irrigation system shall be installed under the dripline of any oak tree.
 - (2) Oak trees greater than four inches (4") in diameter at four and ½ feet (4.5') above grade removed as a result of the project shall be replaced at a five to one (5:1) ratio, at a minimum five (5) gallon size, from South Coastal Santa Barbara County Stock.
 - (3) Oak trees not indicated for removal on the site plans shall be preserved, protected and maintained.
 - (4) During construction, fencing or protective barriers shall be placed around the driplines of all oak trees with driplines within 25 feet of development.
 - (5) No grading shall occur under any oak tree dripline except as indicated on the drainage and grading plan for construction of the wall. Grading within

EXHIBIT A

the dripline during construction of this area shall be minimized and shall be done by hand under the supervision and direction of an Arborist certified by the International Society of Arboriculture. If use of larger equipment is necessary within the dripline of any oak, it shall only be operated under the supervision and direction of an Arborist certified by the International Society of Arboriculture.

- (6) An Arborist certified by the International Society of Arboriculture shall be present during any grading or excavation adjacent to or beneath the dripline of any oak tree. Any roots encountered shall be cleanly cut. Any thinning or root pruning and trimming shall be done under the direction of a qualified Arborist.
 - (7) No storage of heavy equipment or materials or parking shall take place within five (5) feet of the dripline of any oak tree.
 - (8) Landscaping provided under the oak tree(s) shall be compatible with preservation of the trees as determined by the Single Family Design Board (SFDB). No irrigation system shall be installed under the dripline of any oak tree.
 - (9) Oak trees greater than four inches (4") in diameter at four feet and ½ feet (4.5') above grade removed as a result of the project shall be replaced at a five to one (5:1) ratio, at a minimum five (5) gallon size, from South Coastal Santa Barbara County Stock.
3. **Lighting.** Exterior lighting where provided shall be consistent with the City's Outdoor Lighting Ordinance. No floodlights shall be allowed. Lighting shall be directed toward the ground.
 4. **Screened Check Valve/Backflow.** The check valve or anti-backflow devices for fire sprinkler and/or irrigation systems shall be provided in a location screened from public view or included in the exterior wall of the building.
 5. **Additional Landscaping Below Rear Wall.** Substantial additional landscaping shall be planted below the rear wall to reduce its visibility, including fast-growing shrubs and cascading vines. in the exterior wall of the building.
- B. **Recorded Conditions Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner shall execute a written instrument, which shall be reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:
1. **Approved Development.** The development of the Real Property approved by the Staff Hearing Officer on October 22, 2008 is limited to the improvements shown on the plans signed by the Staff Hearing Officer on said date and on file at the City of Santa Barbara.

2. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted flow of water onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.
 3. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Single Family Design Board (SFDB). Such plan shall not be modified unless prior written approval is obtained from the SFDB. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan. If said landscaping is removed for any reason without approval by the SFDB, the owner is responsible for its immediate replacement.
 4. **Street Tree Protection.** The street trees within the City's right-of-way shall be preserved and protected.
 5. **Future House.** Any future house will be a single story house in the Mediterranean architectural style, subject to approval by the Single Family Design Board (SFB), and maintain the view corridor from Franceschi Park.
- C. **Public Works Requirements Prior to Building Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following to the Public Works Department for review and approval, prior to the issuance of a Building Permit for the project.
1. **Water Rights Assignment.** Owner shall assign to the City of Santa Barbara. The exclusive right to extract ground water from under the Real Property. This assignment of rights shall not include a right of surface entry on or from the Real Property. Said agreement and any related agreements are subject to the review and approval of the City Attorney and the City Public Works Director. Said agreement shall be recorded in the Office of the County Recorder.
 2. **Public Improvement Plans.** Owner shall submit a building plan for construction of repair of public improvements along the subject property road frontage on Mission Ridge Road. As determined by the Public Works Department, the improvements shall include new, and/or remove and replace to City standards portions of damaged curb along property frontage.
- D. **Building Permit Plan Requirements.** The following requirements/notes shall be incorporated into the construction plans submitted to the Building and Safety Division for Building permits.
1. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the Single Family Design Board, outlined in Section A above.
 2. **Grading Plan Notes.** Notes on the plans and specify the following:
 - (a) No irrigation system shall be installed under the driplines of trees.
 - (b) No grading shall occur under the driplines of the existing trees.

- (c) An Arborist certified by the International Society of Arboriculture shall be present during any excavation adjacent to or beneath the dripline of the trees which are required to be protected.
- (d) All excavation within the dripline of the trees shall be done with hand tools.
- (e) Any roots encountered shall be cleanly cut.
- (f) The trees shall be thinned as needed in accordance with recommendations of an Arborist certified by the International Society of Arboriculture. A permit shall be obtained from the Parks Department at (805) 897-2692.
- (g) No heavy equipment, storage of materials or parking shall take place under the dripline of the trees.
- (h) Any root pruning and trimming shall be done under the direction of an Arborist certified by the International Society of Arboriculture.

3. **Grading Plan Requirement for Archaeological Resources.** The following information shall be printed on the grading plans:

If archaeological resources are encountered or suspected, work shall be halted or redirected immediately and the Planning Division shall be notified. The archaeologist shall assess the nature, extent, and significance of any discoveries and develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Planning Division grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Planning Division grants authorization.

4. **Conditions on Plans/Signatures.** The final Staff Hearing Officer Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Archaeologist contract submitted to Community Development Department for review). A statement shall also be placed on the above sheet as follows: The undersigned have read and

understand the above conditions, and agree to abide by any and all conditions which is their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

Property Owner	Date
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Contractor	Date	License No.
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Architect	Date	License No.
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Engineer	Date	License No.
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E. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction.

1. **Pre-Construction Conference.** Not less than 10 days or more than 20 days prior to commencement of construction, a conference to review site conditions, construction schedule, construction conditions, and environmental monitoring requirements, shall be held by the General Contractor. The conference shall include representatives from the Public Works Department Engineering and Transportation Divisions, Building Division, Planning Division, the Property Owner (Archaeologist, Architect, Arborist, Landscape Architect, Biologist, Geologist, Project Engineer, Project Environmental Coordinator, Mitigation Monitors), Contractor and each Subcontractor.
2. **Demolition/Construction Materials Recycling.** Recycling and/or reuse of demolition/construction materials shall be carried out to the extent feasible, and containers shall be provided on site for that purpose, in order to minimize construction-generated waste conveyed to the landfill. Indicate on the plans the location of a container of sufficient size to handle the materials, subject to review and approval by the City Solid Waste Specialist, for collection of demolition/construction materials. A minimum of 90% of demolition and construction materials shall be recycled or reused. Evidence shall be submitted at each inspection to show that recycling and/or reuse goals are being met.
3. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 7:00 a.m. and after 5:00 p.m., and all day on Saturdays, Sundays and holidays observed by the City of Santa Barbara, as shown below: (look at longer or shorter hours and Saturday construction, depending on project location)

New Year's Day	January 1st*
Martin Luther King's Birthday	3rd Monday in January
Presidents' Day	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4th*
Labor Day	1st Monday in September
Thanksgiving Day	4th Thursday in November
Following Thanksgiving Day	Friday following Thanksgiving Day
Christmas Day	December 25th*

*When a holiday falls on a Saturday or Sunday, the preceding Friday or following Monday, respectively, shall be observed as a legal holiday.

When, based on required construction type or other appropriate reasons, it is necessary to do work outside the allowed construction hours, contractor shall contact the Chief of Building and Safety to request a waiver from the above construction hours, using the procedure outlined in Santa Barbara Municipal Code §9.16.015 Construction Work at Night. Contractor shall notify all residents within 300 feet of the parcel of intent to carry out night construction a minimum of 48 hours prior to said construction. Said notification shall include what the work includes, the reason for the work, the duration of the proposed work and a contact number that is answered by a person, not a machine.

4. **Construction Parking/Storage/Staging.** Construction parking and storage shall be provided as follows:
 - (a) During construction, free parking spaces for construction workers and construction shall be provided on-site or off-site in a location subject to the approval of the Public Works Director. Construction workers are prohibited from parking within the public right-of-way, except as outlined in subparagraph b. below.
 - (b) Parking in the public right of way is permitted as posted by Municipal Code, as reasonably allowed for in the 2006 Greenbook (or latest reference), and with a Public Works permit in restricted parking zones. No more than three (3) individual parking permits without extensions may be issued for the life of the project.
 - (c) Storage or staging of construction materials and equipment within the public right-of-way shall not be permitted, unless approved by the Transportation Manager.
5. **Water Sprinkling During Grading.** The following dust control measures shall be required, and shall be accomplished using recycled water whenever the Public Works Director determines that it is reasonably available:
 - (a) Site grading and transportation of fill materials.
 - (b) Regular water sprinkling; during clearing, grading, earth moving or excavation.

- (c) Sufficient quantities of water, through use of either water trucks or sprinkler systems, shall be applied on-site to prevent dust from leaving the site.
 - (d) Each day, after construction activities cease, the entire area of disturbed soil shall be sufficiently moistened to create a crust.
 - (e) Throughout construction, water trucks or sprinkler systems shall also be used to keep all areas of vehicle movement on-site damp enough to prevent dust raised from leaving the site. At a minimum, this will include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency will be required whenever the wind speed exceeds 15 mph.
- 6. **Expeditious Paving.** All roadways, driveways, sidewalks, etc., shall be paved as soon as possible. Additionally, building pads shall be laid as soon as possible after grading unless seeding or soil binders are used, as directed by the Building Inspector.
 - 7. **Street Sweeping.** The property frontage and adjacent property frontages, and parking and staging areas at the construction site shall be swept daily to decrease sediment transport to the public storm drain system and dust.
 - 8. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.
 - 9. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that list the contractor(s) telephone number(s), work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. The construction contact phone number shall include an option to contact a person instead of a machine in case of emergency. The font size shall be a minimum of 0.5 inches in height. Said sign shall not exceed six feet in height from the ground if it is free-standing or placed on a fence. It shall not exceed 24 square feet if in a multi-family or commercial zone or six square feet if in a single family zone.
 - 10. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
 - 11. **Graffiti Abatement Required.** Owner and Contractor shall be responsible for removal of all graffiti as quickly as possible. Graffiti not removed within 24 hours of notice by the Building and Safety Division may result in a Stop Work order being issued, or may be removed by the City, at the Owner's expense, as provided in SBMC Chapter 9.66.
 - 12. **Unanticipated Archaeological Resources Contractor Notification.** Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts associated with past human occupation of the parcel. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the applicant

shall retain an archaeologist from the most current City Qualified Archaeologists List. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

- F. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:
1. **Repair Damaged Public Improvements.** Repair any damaged public improvements (curbs, gutters, sidewalks, roadways, etc.) subject to the review and approval of the Public Works Department per SBMC §22.60.090. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
 2. **Complete Public Improvements.** Public improvements, as shown in the improvement/building plans, including utility service undergrounding and installation of street trees.
- G. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors ("City's Agents") from any third party legal challenge to the City Council's denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively "Claims"). Applicant/Owner further agrees to indemnify and hold harmless the City and the City's Agents from any award of attorney fees or court costs made in connection with any Claim.
- Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of the City Council denial of the appeal and approval of the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If

Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City's sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City's Agents from independently defending any Claim. If the City or the City's Agents decide to independently defend a Claim, the City and the City's Agents shall bear their own attorney fees, expenses, and costs of that independent defense.

NOTICE OF APPROVAL TIME LIMITS:

The Staff Hearing Officer's action approving the Modification, shall terminate two (2) years from the date of the approval, per Santa Barbara Municipal Code §28.87.360, unless:

1. An extension is granted by the Community Development Director prior to the expiration of the approval; or
2. A Building permit for the use authorized by the approval is issued within and the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.
3. The approval has not been discontinued, abandoned or unused for a period of six months following the earlier of (a) an Issuance of a Certificate of Occupancy for the use, or (b) two (2) years from granting the approval.

If multiple discretionary applications are approved for the same project, the expiration date of all discretionary approvals shall correspond with the longest expiration date specified by any of the discretionary applications, unless such extension would conflict with state or federal law. The expiration date of all approvals shall be measured from date of the final action of the City on the application, unless otherwise specified by state or federal law.

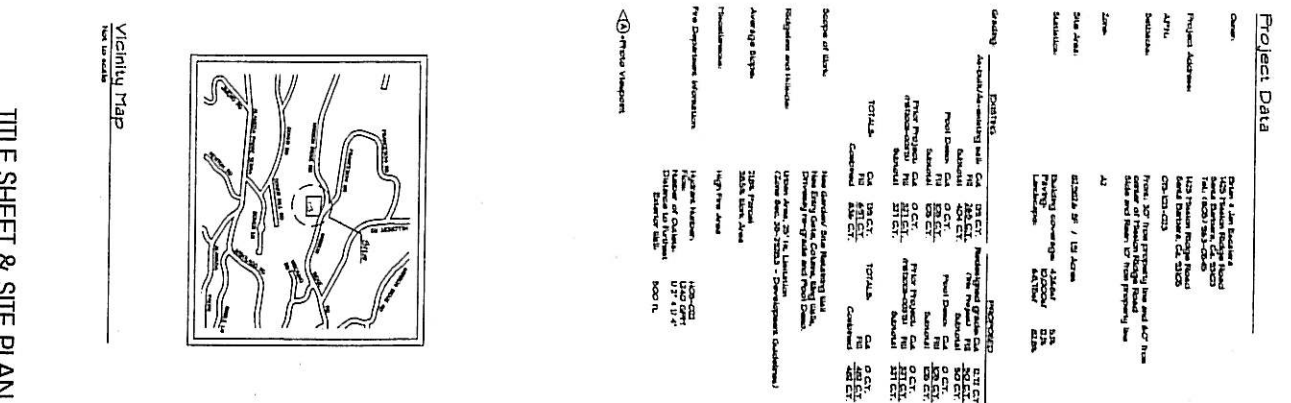
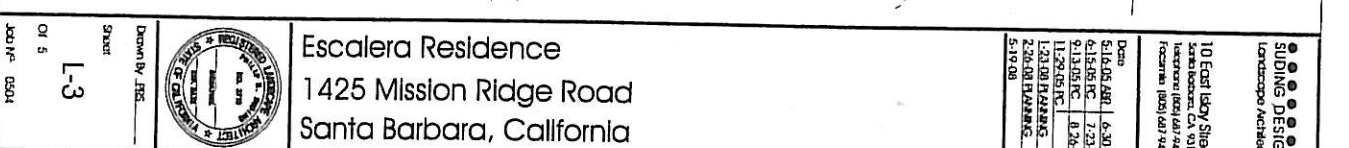
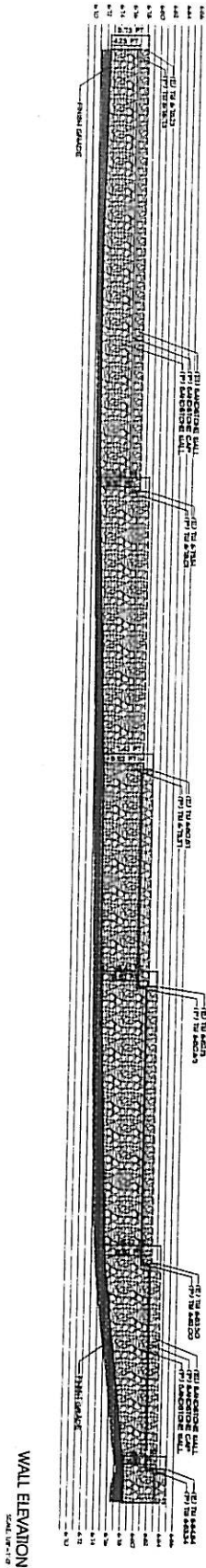
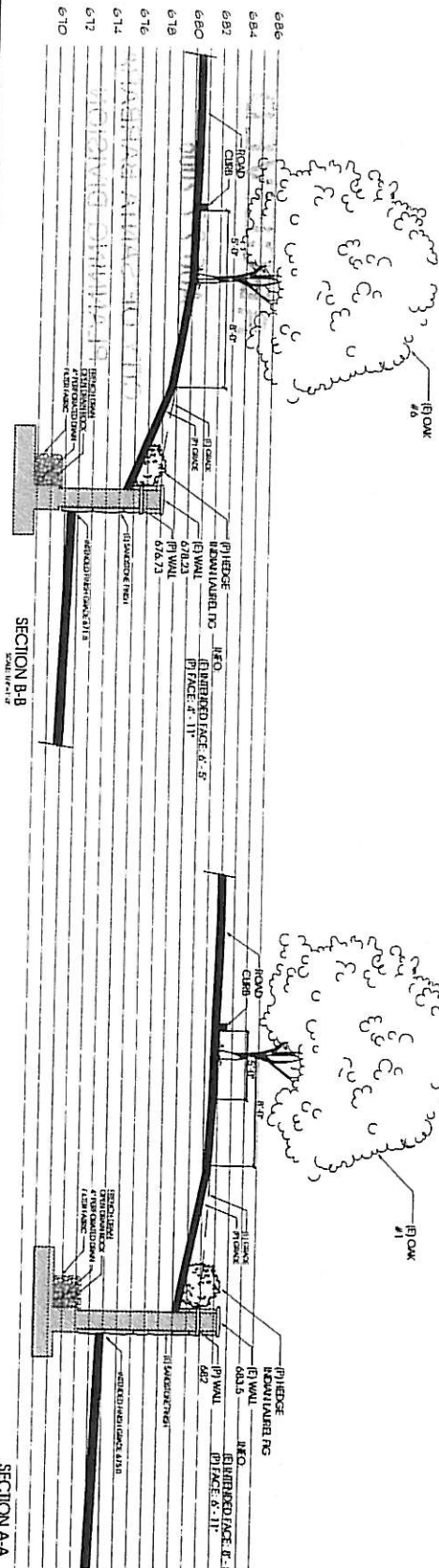
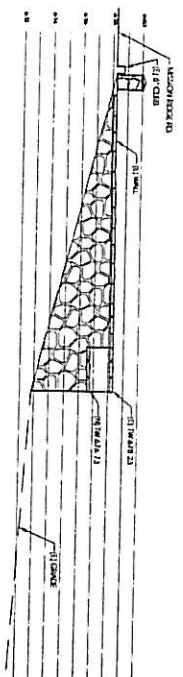
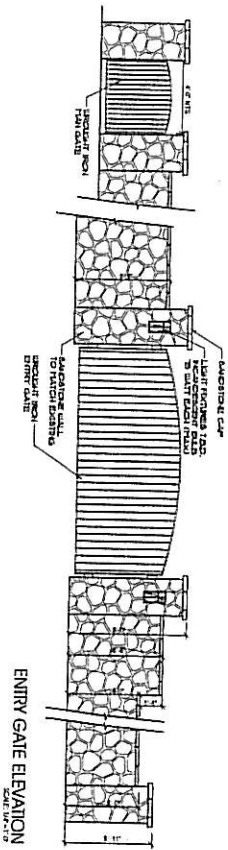


Exhibit B





WALL SECTIONS, ELEVATIONS, & ENTRY GATE ELEVATION



July 28, 2008

City of Santa Barbara Staff Hearing Officer
c/o: Jo Anne La Conte
City of Santa Barbara
Community Development
630 Garden Street
Santa Barbara, CA 93101-1656

RECEIVED
JUL 28 2008

**CITY OF SANTA BARBARA
PLANNING DIVISION**

Re: 1425 Mission Ridge Road - Front Yard Retaining Wall

Dear Staff Hearing Officer:

In late March of this year, the owner of the above referenced project attempted to start the deconstruction of the retaining wall and reduction of grade behind the wall per Planning Commission conditions set forth at the March 6, 2008 lunch meeting. The proposed and existing heights of the "as-built" wall are as follows:

Existing: 3.73 ft. to 8.42 ft.
Proposed: 3.73 ft. to 6.92 ft.

In every way, the owners were attempting to go forward with the project. The owner contacted the City Arborist (Tim Downey) and the Public Works Department (Tim Gaasch) before starting any work pursuant to his permit.

Several issues and questions were raised by both Mr. Downey and Mr. Gaasch related to the current requirement to lower the existing retaining wall and grade. Both the individuals expressed concern respective to their department and expertise.

Mr. Downey was concerned about impacts to the existing City-owned Oak trees and Cedar tree caused by reducing the grade. Mr. Downey indicated that the health and stability of the trees could be adversely affected by lowering the soil. He suggested the owner obtain an independent arborist report (attached, dated April 1, 2008). In the report the Arborist recommends not to remove the fill soil to original grade if the health of these trees is a priority, concluding that the removal would be stressful to very stressful on the trees. The arborist report also indicates that these trees have not declined, and if anything, their condition may have improved. Upon further in-situ investigation, the arborist discovered and documented roots with a diameter of up to 3/8 inch in the upper 16 inch soil section, evidence that the Oaks have developed new root systems. Removing soil in the Oak root zone would remove this new root system and would be a serious assault on the health of

Exhibit C

10 East Islay Street
Santa Barbara, CA 93101
805-687-9455

Staff Hearing Officer
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these trees. Therefore the report recommends leaving the soil at its current grade. The City Arborist agrees that removal of soil to the original grade will have a significant impact on the health of the trees.

Mr. Gaasch indicated that the more soil that is against and adjacent to the downhill side of Mission Ridge Road, the better it is for supporting the road. Obviously, any structure, either soil and/or built wall, benefits the existing city roadway. Removing the soil and reducing the wall height compromises the roadway. Additionally, the existing flat space at the back of the curb creates a safety zone for vehicles coming down Franceschi Road. Having the flat area directly across from the 'tee' intersection of Franceschi Road, would aid any vehicle if it was to overshoot the stop sign or loose control at the base of the very steep road.

In addition to the concerns discussed above, if the grade is to be reduced to the level required, it would be at the expense of the function of the as-built french drain since there would be little soil cover over the system. In some places, the reduced grade would cut into the existing french drain system. In places where no cut into the system occurs, only about 3 inches of soil would remain on top of the french drain. No planting could occur in a 4 foot area behind the wall if the french drain system is to function properly. Roots getting into the system would seriously and adversely impact drainage creating an unsafe and undesirable condition. The project engineer has designed the french drain to handle the calculated amount of water behind the wall. There is no proper drainage solution if grade is cut. Furthermore, there is no ability to install area drains to handle surface water.

The owner has heard your concerns and respects them. However, insurmountable issues and consequences have arisen and the owners are trying to deal with them to get a win/win solution. They have always intended to implement the conditions that are placed on the project but when City staff (including the aforementioned individuals and Mark Wilde, City Engineering Division) expressed concerns, we realized we needed to come up with a better solution. Taking into account all of these concerns, we respectfully request that the Commission to entertain a compromise solution. We feel the win/win solution is to reduce the height of the existing wall by 1 ½ feet and to reduce the grade by 3 feet from the top of the existing wall starting 8 feet from the trunks of the trees. We feel this, along with the plentiful landscape planting, achieves the intent of minimizing the apparent height of the wall from the public street, preserves the existing trees, and is a safe & logical solution. Truthfully, the constraints have dictated this solution, and the solution meets the intent of the ordinance.

As you are all well aware, the owners have been through a considerable process. They appreciate all the thought you have given this project and the amount of work City Staff has done. They are trying very hard to remedy the situation and by no means are attempting to stall or otherwise

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Page Three

thwart a feasible and logical remedy. It is important to realize that we were not acutely aware of all of these current issues.

Sincerely and respectfully,

Suding Design Landscape Architects, Inc.

A handwritten signature in black ink, appearing to be 'PS' with a stylized flourish.

Philip Suding
Principal, Landscape Architect
CA License N° 3710

RECEIVED

MAY 22 2008

CITY OF SANTA BARBARA
PLANNING DIVISION

**Oak Tree Consultation
Escalera Property
1425 Mission Ridge Road**

**Prepared for:
Brian Escalera
1425 Mission Ridge Rd.
Santa Barbara CA 93103
(805) 682-9553 or 682-2464**

**Prepared by:
Robert Muraoka M.S., B.S.
Agri-Turf Supplies Inc.
Santa Barbara CA 93105
April 1, 2008**

Exhibit D

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Robert Muraoka M.S., B.S.
Certified Arborist #WE3987A
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(805) 569-2257 fax (805) 569-0073
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RECEIVED

MAY 22 2008

CITY OF SANTA BARBARA
PLANNING DIVISION

April 1, 2008

Brian Escalera
1425 Mission Ridge Rd.
Santa Barbara CA 93103
(805) 682-9553 or 689-1700

Summary

I met with Mr. Brian Escalera and Mr. Phil Suding at 1425 Mission Ridge Rd. on March 25, 2008 to discuss removing the backfill soil between Mission Ridge Rd. and the retaining wall built on the property. They were concerned with the potential impacts it would have on the six established *Quercus agrifolia*, coast live oaks and one *Cedrus deodara*, California christmas tree that are currently growing next to the road.

If the health of these trees is a high priority; I would not recommend removing this soil and returning the area to its original grade. I have concluded that removing the fill soil would be a stressful if not very stressful assault on these trees.

Background and History

I met with Mr. Brian Escalera, Mr. Phil Suding at 1425 Mission Ridge Rd. on March 25, 2008 to provide an arborist report regarding six mature *Quercus agrifolia* and one *Cedrus deodara*, California christmas tree growing at the site. I have had previous experience on this site and with these trees.

In September of 2005, I was called out to assess the general health and growing conditions of these particular trees. At that time, the retaining wall in question had already been built. Trees numbers 2, 3, 6 and 7 had backfill soil mounded around the base of their trunks in depths varying from 12" to 18" deep. This was my primary concern and my recommendation was to remove the excess soil and return the area to its original grade. The trees did not show any signs of undo stress at the time and I rated there overall health as good, their foliage color as normal and their annual growth as fair.

Agri-Turf Supplies Inc.

April 1, 2008

Assignment

On March 25, 2008 we agreed that I, Robert Muraoka M.S., B.S. a Certified Arborist WE-3987A representing Agri-Turf Supplies would complete the following:

- Provide an arborist report detailing the potential impact or impacts that removing the fill soil would have on the specimen trees located within or near the area of the proposed soil excavation.

Limits

This report is limited to documenting the potential problems that may be incurred if the soil in the area between the road and the retaining wall are returned to the original grade.

My fieldwork included some field excavation for root observation. The digital photographs in Appendix A have not been altered or enhanced in any way. They are intended to be used only as visual aids.

Purpose and Use

The information in this report is intended for the exclusive use of Mr. Brian Escalera, Mr. Phil Suding and the Santa Barbara County Planning and Development Department. My recommendations are made for the sole purpose of assisting the concerned parties take appropriate and reasonable actions with regards to the coast live oaks on Mr. Escalera's property.

Site Observations

When I visited the site, the oaks were in the middle of their spring flush of growth. The general health of the trees has not declined over the past 2 ½ years; if anything their condition may have improved.

What happened next was a series of questions and answers that created the basis and need for this report.

Mr. Escalera asked me, how would removing the soil in the planting area between the road and the retaining wall impact the established oaks that were growing next to the street.

My reply was to ask why would he want to remove the soil in the first place and he stated that he needed to return the soil to its preexisting grade.

I asked what the depth of the original grade was and he stated the original grade began about a foot away from the curb on Mission Ridge Rd. and tapered to about eight feet deep at the retaining wall.

I was a little surprised by his answer because in 2005 my assignment was to delineate what effect the installation of this retaining wall had on the existing trees. Since it was built fifteen feet away from their trunks and six feet outside the dripline of the oaks, I deemed the construction of the retaining wall would have created no measurable or visible problems for the trees. This opinion was on the basis that any trenching for the footing would have been well outside of their critical root zone.

At the time I did not know and did not discover just how much fill soil was backfilled on the north side of the retaining wall. My only real concern for these trees back in 2005 was the possibility of root cutting for the footing of the retaining wall and the fill soil that had been mounded in the immediate area adjacent to and around the base of their trunks.

When I was made aware that the original root zone was buried up to a depth of eight feet. I had a preliminary answer to his original question, *"How would removing the soil in the planting area between the road and the retaining wall impact the established oaks that were growing next to the street?"* I told him as long as they did not physically damage the trees with construction or excavation impacts the trees should benefit by having the excess soil removed.

There were however a few other questions that needed to be answered. I was a little surprised that these trees had not declined in health over the past 2 ½ years and may have actually improved in their general condition. This was especially puzzling given half of their root system was covered by Mission Ridge Rd. and the other half had been covered by fill soil.

Method and Analysis

I had four trenches dug by hand running east to west and north to south about six feet away from the trunks of oak tree number 4 and number 5 (see Appendix A Photo 2). The trenches were four feet long and 16 inches deep. As expected there were no large roots in the excavated area. There was however a surprising number of fine hair roots and roots with diameters up to 3/8" inch (see Appendix A Photo 1).

The north/south trench revealed the depth of the backfill was approximately 12" deep just south of oak tree trunk number 4. In the east/west trench there was no evidence of the original grade suggesting the original grade did indeed slope towards the retaining wall.

Discussion

If I was called to render an opinion prior to the backfill being placed on the north side of the wall I would have strongly recommended against it. When soil is added to the original grade, it can have a detrimental effect on the tree. Research has shown that close to 90 percent of the fine roots that absorb water and minerals are in the upper 6 to 12 inches of soil. When the grade is changed by piling soil over the root system; even a few inches of soil can drastically alter the infusion and exchange of oxygen. This may severely limit or permanently damage the existing roots ability to function. This would have been important on this row of oak trees because the entire south side of their root system is covered by Mission Ridge Rd. This led me to speculate that these trees were able to generate new water and nutrient absorbing roots. After digging a few exploratory trenches, I discovered that these oaks had indeed developed a new root system.

I would imagine the roots that were growing closer to the wall are no longer functioning having been buried under eight feet of soil for the better part of three years. I would surmise that these trees were able to grow a new root system because the root initiation zones close to the trunks were buried under much shallower soil. Over the past few years the old roots have been replaced by this new root system in the upper foot of fill soil. This would explain the improved appearance of these trees compared to my prior visit. This is promising especially given the poor growing conditions these trees have been subjected to over the years; pavement, backfill etc.

If Mr. Escalera were to return this area back to its original grade; the excavation will no doubt remove the new water absorbing roots the trees have been able to generate over the past few years. This would be yet another serious assault on the health of these trees.

In addition to removing the new root system; excavation equipment could injure the aboveground portion of these trees by breaking branches, tearing the bark, and wounding the trunk. This is an important concern because Mr. Escalera proposes to begin removing soil within a foot of the trunks of these trees. Normally I would recommend protective chain-link or any other suitable fencing material be installed at least out to their dripline to protect the root zone of these oaks. In this particular case, the entire excavation area is within the root protection zone.

Another area of concern with regards to the oak trees and the proposed excavation would be the potential for soil compaction. Ideally the soil for good root growth and development contains about 50 percent pore space. Heavy equipment, or even hand-held equipment and foot traffic necessary for soil removal can compact the soil and dramatically reduce the amount of pore space. Compaction can be a serious problem; it inhibits root growth and also decreases oxygen in the soil that is essential for the promotion of healthy functioning roots.

Recommendations

My recommendation with regards to the existing oak trees and the proposed excavation is to leave the soil at the current existing grade. If this is not possible there will be unavoidable damage to the new root system of these trees. These continual assaults to the oaks do not necessarily have a cumulative effect, nor will they necessarily cause tree death. However it should be noted that these additional stresses can render the trees more susceptible to other disease and insect pests resulting in the real possibility of tree mortality.

If it is decided to return the soil to the original grade, the trunks of the trees should be protected with some form of physical barrier. Additionally the labor should be instructed as to the potential for permanent damage by inadvertent contact with construction equipment. The fill soil should not be watered prior to removal in order to reduce the potential for compaction.

Glossary

Dripline is the outermost area of the tree canopy (leafy area of tree).

Root Protection Zone is the area within a circle with a radius equal to the greatest distance from the trunk to any overhanging foliage in the tree canopy.

Bibliography

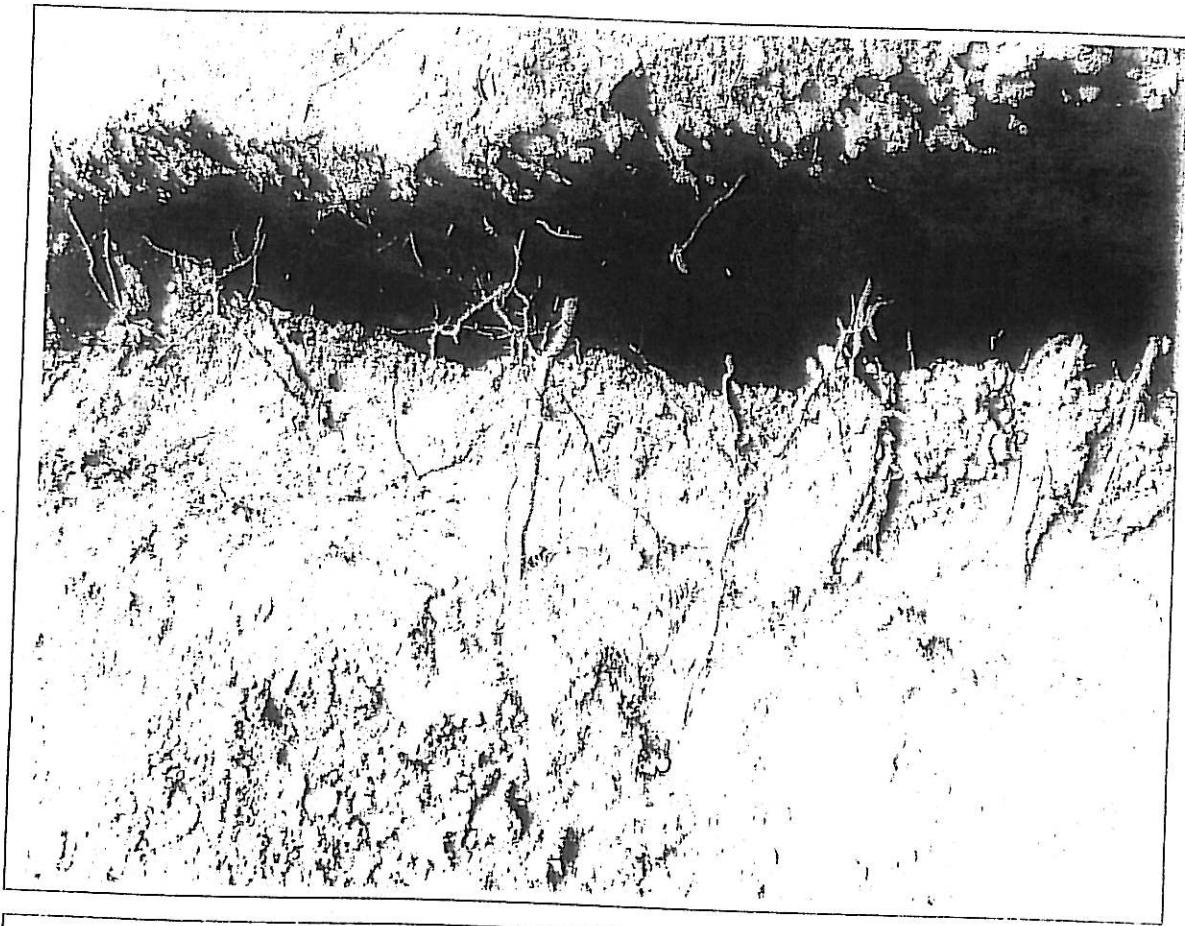
Tree Care Information Treatment of Trees Damaged by Construction. isa@isa-arbor.com
(c) 1998, 2004 International Society of Arboriculture. UPDATED JULY 2005

Pasadena Tree Protection Ordinance / Tree Protection Guidelines Parks and Natural Resources Division pages 1-4

Appendix A

Appendix A-Photos Photo 1

Appendix A-Photos Photo 2

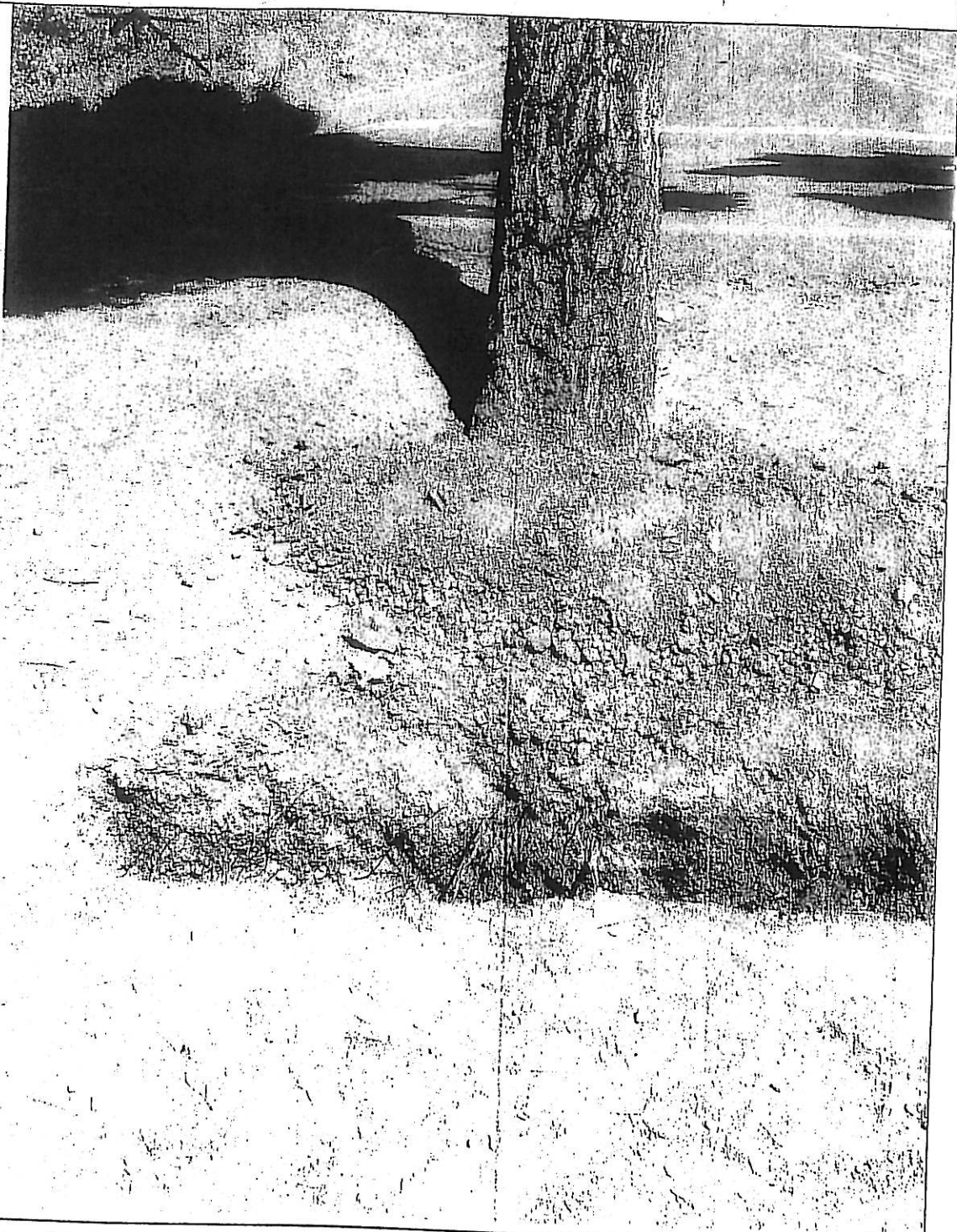


Appendix A Photos

Taken 3-26-08

Photo 1

This is a picture of the east/west trench dug approximately six feet south of oak tree number five. This trench illustrates the relative number and size of the new roots that have grown into the fill soil. The bottom of the trench is approximately sixteen inches deep and does not reach the original grade.



Taken 3-26-08

This photo illustrates the distance of the trench relative to the trunk of oak number four. The new roots are also visible in this photo.

CONCEPT REVIEW - NEW ITEM: PUBLIC HEARING**3. 1425 MISSION RIDGE RD****A-2 Zone**

Assessor's Parcel Number: 019-103-023
Application Number: MST2008-00244
Owner: Escalera Living Trust
Architect: Suding Design Landscape Architects

(Proposal to permit an as-built 55-foot long retaining wall, 836 cubic yards of grading in the front yard and within the road right-of-way and an as-built pool removal. An entry gate and landscape plan are also proposed. The Planning Commission (PC) approved this project with conditions in 2006, but work has not commenced. The applicant requests a Staff Hearing Officer (SHO) project amendment to allow more fill and a higher wall height than was approved by the PC, and driveway re-engineering consistent with the proposed plan. Also requested are SHO approval to allow over height walls within The front setback and road encroachment permits. The project is located on a 1.9 acre lot in the Hillside Design District.)

(Comments only; project requires environmental assessment and Staff Hearing Officer approvals of a project amendment and a modification.)

Time: 4:42

Present: Philip Suding, Architect; Brian Escalera, Owner; Joanne LaConte, Planner; Stella Larson, Planning Commission Liaison.

Ms. LaConte, Assistant Planner, provided staff comments and was available to answer questions from the Board. Mr. Suding reported that grading is no longer proposed.

Ms. Larson, Planning reported that the Planning Commission had previously requested reduction of the retaining wall due to public views.

Public comment opened at 4:52 p.m.

Raymond Sawyer, opposed:

Public comment closed at 4:58 p.m.

Ms. Larson, Planning Commission Liaison, reported that PC had requested natural grade; and the wall to be reduced by 20 inches. Mr. Suding, Applicant, stated that reduction was made because sufficient information was not available prior to attending Planning Commission. Mr. Zink stated that due to Zoning Ordinance changes the project will no longer be reviewed by the Planning Commission. Mr. Escalera, Owner, stated that he is acceptable to changing the hedge as necessary.

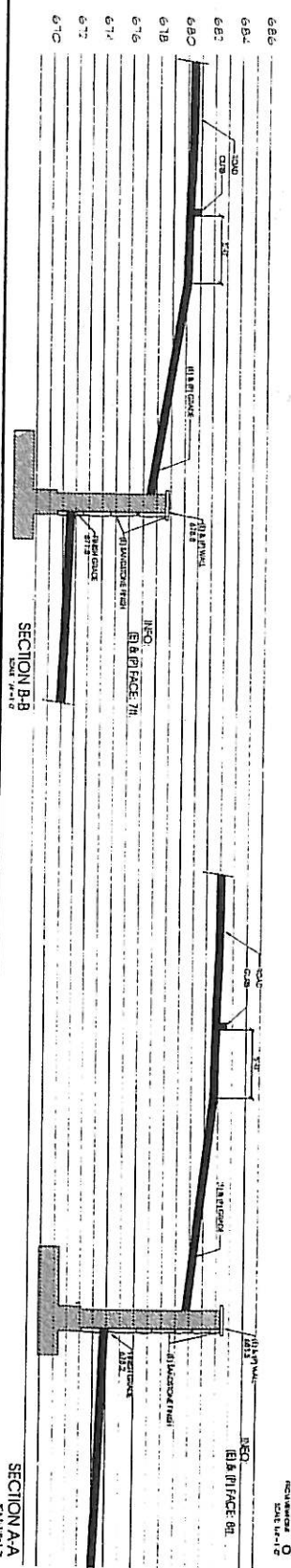
Motion: Continued indefinitely to Staff Hearing Officer and return to Consent Calendar with the following comments

- 1) The modification request is supportable as submitted.
- 2) Verify that landscape is to be low, mounding, and preserve pedestrian views from Mission Ridge Road.
- 3) The wall will be lowered 18 inches and grade will be lowered 24 inches, protecting the new feeder roots of the oaks along Mission Ridge Road.

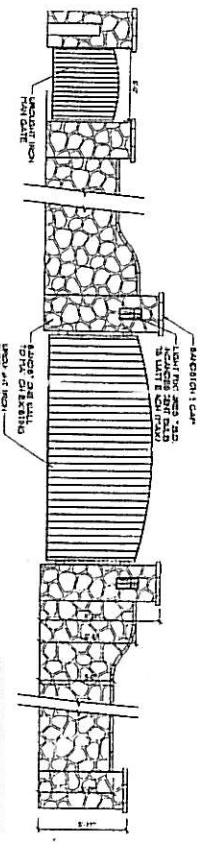
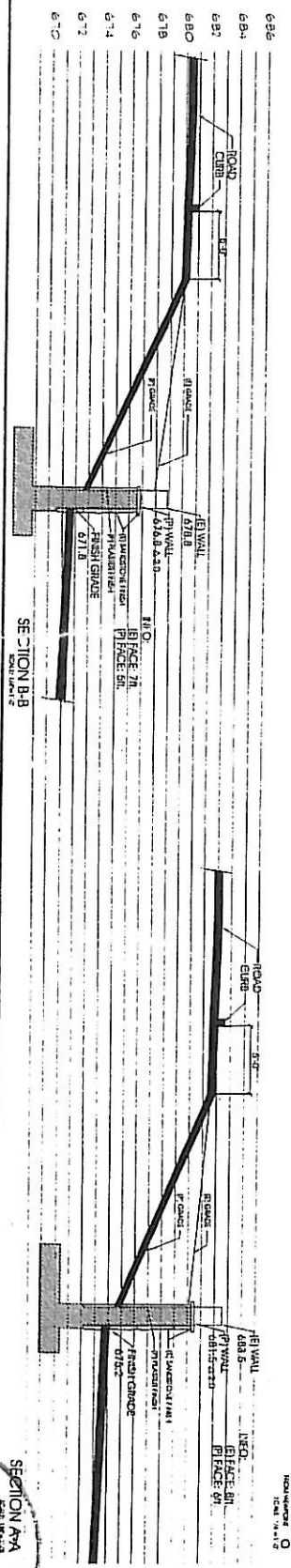
Action: Mosel/Woolery, 5/0/1. Motion carried. (Bernstein abstained. Mahan absent.)

MST 2005-00098

PROPOSED OPTION A



PROPOSED OPTION B



ENTRY GATE ELEVATION
WALL SECTIONS & ENTRY GATE ELEVATION

Optically
SCANNED
Document

Escalera Residence
1425 Mission Ridge Road
Santa Barbara, California

EXHIBIT F

STUDING DESIGN
LAWRENCE ARCHITECTS
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DOW
5-2-05 ARI
5-16-05 ARI
4-15-06 PC
9-13-06 PC

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